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SENATE BILL 291

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Dede Feldman

AN ACT

RELATING TO TAXATION; CLARIFYING PROVISIONS OF THE SUSTAINABLE BUILDING TAX CREDITS; ALLOWING NONPROFIT ENTITIES TO RECEIVE THE SUSTAINABLE BUILDING TAX CREDITS THROUGH TRANSFERABILITY; PROVIDING GREATER FLEXIBILITY TO MULTIFAMILY RESIDENTIAL BUILDINGS REGARDING OPPORTUNITIES TO BE QUALIFIED FOR SUSTAINABLE BUILDING TAX CREDITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-2-18.19 NMSA 1978 (being Laws 2007, Chapter 204, Section 3) is amended to read:

"7-2-18.19. SUSTAINABLE BUILDING TAX CREDIT.--

A. The tax credit provided by this section may be referred to as the "sustainable building tax credit". The sustainable building tax credit shall be available for the construction in New Mexico of a sustainable building, [or] the

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1 renovation of an existing building in New Mexico into a
2 sustainable building or the permanent installation of
3 manufactured housing, regardless of where the housing is
4 manufactured, that is a sustainable building. The tax credit
5 provided in this section may not be claimed with respect to the
6 same sustainable building for which the sustainable building
7 tax credit provided in the Corporate Income and Franchise Tax
8 Act has been claimed.

9 B. A taxpayer who files an income tax return is
10 eligible to ~~[apply for]~~ be granted a sustainable building tax
11 credit by the department if the taxpayer ~~[is:~~

12 ~~(1) the owner of the building at the time the~~
13 ~~certification level for the building in the LEED green building~~
14 ~~rating system or the build green New Mexico rating system is~~
15 ~~awarded; or~~

16 ~~(2) the subsequent purchaser of a sustainable~~
17 ~~building with respect to which no tax credit has been~~
18 ~~previously claimed, if the certification level for the building~~
19 ~~in the LEED green building rating system or the build green New~~
20 ~~Mexico rating system is awarded on or after January 1, 2007]~~
21 submits a document issued pursuant to Subsection I of this
22 section with the taxpayer's income tax return.

23 C. The amount of the sustainable building tax
24 credit that may be claimed with respect to a sustainable
25 commercial building shall be calculated based on the

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1 certification level the building has achieved in the LEED green
 2 building rating system and the amount of qualified occupied
 3 square footage in the building, as indicated on the following
 4 chart:

5 LEED Rating Level	6 Qualified Occupied	7 Tax Credit per Square Foot
8 LEED-NC Silver	9 First 10,000	\$3.50
	10 Next 40,000	\$1.75
	11 Over 50,000	
	up to 500,000	\$.70
12 LEED-NC Gold	13 First 10,000	\$4.75
	14 Next 40,000	\$2.00
	15 Over 50,000	
	up to 500,000	\$1.00
16 LEED-NC Platinum	17 First 10,000	\$6.25
	18 Next 40,000	\$3.25
	19 Over 50,000	
	up to 500,000	\$2.00
20 LEED-EB or CS Silver	21 First 10,000	\$2.50
	22 Next 40,000	\$1.25
	23 Over 50,000	
	up to 500,000	\$.50
24 LEED-EB or CS Gold	25 First 10,000	\$3.35
	Next 40,000	\$1.40

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1		Over 50,000	
2		up to 500,000	\$.70
3	LEED-EB or CS Platinum	First 10,000	\$4.40
4		Next 40,000	\$2.30
5		Over 50,000	
6		up to 500,000	\$1.40
7	LEED-CI Silver	First 10,000	\$1.40
8		Next 40,000	\$.70
9		Over 50,000	
10		up to 500,000	\$.30
11	LEED-CI Gold	First 10,000	\$1.90
12		Next 40,000	\$.80
13		Over 50,000	
14		up to 500,000	\$.40
15	LEED-CI Platinum	First 10,000	\$2.50
16		Next 40,000	\$1.30
17		Over 50,000	
18		up to 500,000	\$.80.

19 D. The amount of the sustainable building tax
20 credit that may be claimed with respect to a sustainable
21 residential building shall be calculated based on the
22 certification level the building has achieved in the LEED
23 green building rating system or the build green New Mexico
24 rating system and the amount of qualified occupied square
25 footage, as indicated on the following chart:

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1	Rating System/Level	Qualified	Tax Credit
2		Occupied	per Square
3		Square Footage	Foot
4	Build Green NM Gold	First 2,000	\$4.50
5		Next 1,000	\$2.00
6	LEED-H Silver	First 2,000	\$5.00
7		Next 1,000	\$2.50
8	LEED-H Gold	First 2,000	\$6.85
9		Next 1,000	\$3.40
10	LEED-H Platinum	First 2,000	\$9.00
11		Next 1,000	\$4.45
12	EPA ENERGY STAR		
13	Manufactured Housing	Up to 3,000	\$3.00.

14 E. A ~~[taxpayer]~~ building owner may apply for
15 ~~[certification]~~ a certificate of eligibility for the
16 sustainable building tax credit from the energy, minerals and
17 natural resources department after the construction,
18 installation or renovation of the sustainable building is
19 complete. Applications shall be considered in the order
20 received. If the energy, minerals and natural resources
21 department determines that the ~~[taxpayer]~~ building owner
22 meets the requirements ~~[of Subsection B]~~ of this ~~[section]~~
23 subsection and that the building with respect to which the
24 tax credit application is made meets the requirements of this
25 section as a sustainable residential building or a

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1 sustainable commercial building, [~~it~~] the energy, minerals
2 and natural resources department may issue a certificate of
3 eligibility to the [~~taxpayer~~] building owner, subject to the
4 limitation in Subsection F of this section. The certificate
5 shall include the rating system certification level awarded
6 to the building, the amount of qualified occupied square
7 footage in the building and a calculation of the maximum
8 amount of sustainable building tax credit for which the
9 [~~taxpayer~~] building owner would be eligible. The energy,
10 minerals and natural resources department may issue rules
11 governing the procedure for administering the provisions of
12 this subsection. If the certification level for the building
13 in the LEED green building rating system or the build green
14 New Mexico rating system is awarded on or after January 1,
15 2007, the energy, minerals and natural resources department
16 may issue a certificate of eligibility to a building owner
17 who is:

18 (1) the owner of the building at the time
19 the certification level for the building in the LEED green
20 building rating system or the build green New Mexico rating
21 system is awarded; or

22 (2) the subsequent purchaser of a
23 sustainable building with respect to which no tax credit has
24 been previously claimed.

25 F. The energy, minerals and natural resources

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1 department may issue a certificate of eligibility only if the
2 total amount of sustainable building tax credits represented
3 by certificates of eligibility issued by the energy, minerals
4 and natural resources department pursuant to this section and
5 pursuant to the Corporate Income and Franchise Tax Act shall
6 not exceed in any calendar year an aggregate amount of five
7 million dollars (\$5,000,000) with respect to sustainable
8 commercial buildings and an aggregate amount of five million
9 dollars (\$5,000,000) with respect to sustainable residential
10 buildings; provided that no more than one million two hundred
11 fifty thousand dollars (\$1,250,000) of the aggregate amount
12 with respect to sustainable residential buildings shall be
13 for manufactured housing. If in October of any taxable year,
14 the energy, minerals and natural resources department
15 determines that the applications for sustainable building tax
16 credits with respect to sustainable residential buildings for
17 that taxable year exceed the aggregate limit set in this
18 section, the energy, minerals and natural resources
19 department may issue certificates of eligibility as
20 sustainable commercial buildings to building owners of
21 multifamily dwellings that meet the requirements of the
22 energy, minerals and natural resources department and of this
23 section; provided that applications for sustainable building
24 credits for other sustainable commercial buildings total less
25 than the full amount allocated for tax credits for

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1 sustainable commercial buildings.

2 G. Installation of a solar thermal system or a
3 photovoltaic system eligible for the solar market development
4 tax credit pursuant to Section 7-2-18.14 NMSA 1978 may not be
5 used as a component of qualification for the rating system
6 certification level used in determining eligibility for the
7 sustainable building tax credit, unless a solar market
8 development tax credit pursuant to Section 7-2-18.14 NMSA
9 1978 has not been claimed with respect to that system and the
10 building owner and the taxpayer [~~certifies~~] claiming the
11 sustainable building tax credit certify that such a tax
12 credit will not be claimed with respect to that system.

13 H. To be eligible for the sustainable building
14 tax credit, the [~~taxpayer must~~] building owner shall provide
15 to the taxation and revenue department a certificate of
16 eligibility issued by the energy, minerals and natural
17 resources department pursuant to the requirements of
18 Subsection E of this section and any other information the
19 taxation and revenue department may require to determine the
20 amount of the tax credit [~~due~~] for which the [~~taxpayer~~]
21 building owner is eligible.

22 I. If the requirements of this section have been
23 complied with, the department shall issue to the [~~applicant~~]
24 building owner a document granting a sustainable building tax
25 credit. The document shall be numbered for identification

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1 and declare its date of issuance and the amount of the tax
2 credit allowed pursuant to this section. The document may be
3 submitted by the building owner with that taxpayer's income
4 tax return or may be sold, exchanged or otherwise transferred
5 to another taxpayer. The parties to such a transaction shall
6 notify the department of the sale, exchange or transfer
7 within ten days of the sale, exchange or transfer.

8 J. Except as provided in Subsection K of this
9 section, the sustainable building tax credit represented by
10 the document issued pursuant to Subsection I of this section
11 shall be applied against the taxpayer's income tax liability
12 for the taxable year in which the credit is approved and the
13 three subsequent taxable years, in increments of twenty-five
14 percent of the total credit amount in each of the four
15 taxable years. If the amount of the credit available in a
16 taxable year exceeds the taxpayer's income tax liability for
17 that taxable year, the excess may be carried forward for up
18 to seven years.

19 K. If the total amount of a sustainable building
20 tax credit approved by the department is less than twenty-
21 five thousand dollars (\$25,000), the entire amount of the
22 credit may be applied against the taxpayer's income tax
23 liability for the taxable year in which the credit is
24 approved. If the amount of the credit exceeds the taxpayer's
25 income tax liability for that taxable year, the excess may be

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1 carried forward for up to seven years.

2 L. A taxpayer who otherwise qualifies and claims
3 a sustainable building tax credit with respect to a
4 sustainable building owned by a partnership or other business
5 association of which the taxpayer is a member may claim a
6 credit only in proportion to that taxpayer's interest in the
7 partnership or association. The total credit claimed in the
8 aggregate by all members of the partnership or association
9 with respect to the sustainable building shall not exceed the
10 amount of the credit that could have been claimed by a sole
11 owner of the property.

12 M. A husband and wife who file separate returns
13 for a taxable year in which they could have filed a joint
14 return may each claim only one-half of the sustainable
15 building tax credit that would have been allowed on a joint
16 return.

17 N. For the purposes of this section:

18 (1) "build green New Mexico rating system"
19 means the certification standards adopted by the homebuilders
20 association of central New Mexico;

21 (2) "LEED-CI" means the LEED rating system
22 for commercial interiors;

23 (3) "LEED-CS" means the LEED rating system
24 for the core and shell of buildings;

25 (4) "LEED-EB" means the LEED rating system

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1 for existing buildings;

2 (5) "LEED gold" means the rating in
3 compliance with, or exceeding, the second-highest rating
4 awarded by the LEED certification process;

5 (6) "LEED" means the most current leadership
6 in energy and environmental design green building rating
7 system guidelines developed and adopted by the United States
8 green building council;

9 (7) "LEED-H" means the LEED rating system
10 for homes;

11 (8) "LEED-NC" means the LEED rating system
12 for new buildings and major renovations;

13 (9) "LEED platinum" means the rating in
14 compliance with, or exceeding, the highest rating awarded by
15 the LEED certification process;

16 (10) "LEED silver" means the rating in
17 compliance with, or exceeding, the third-highest rating
18 awarded by the LEED certification process;

19 (11) "qualified occupied square footage"
20 means the occupied spaces of the building as determined by:

21 (a) the United States green building
22 council for those buildings obtaining LEED certification;

23 (b) the administrators of the build
24 green New Mexico rating system for those homes obtaining
25 build green New Mexico certification; and

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1 (c) the United States environmental
2 protection agency for ENERGY STAR-certified manufactured
3 homes;

4 (12) "multifamily dwelling" means a building
5 that has multiple dwelling units for more than one family
6 unit and may be considered to be either a sustainable
7 residential building or a sustainable commercial building;

8 (13) "nonprofit organization" means a
9 nonprofit corporation or trust that is exempt from payment of
10 income tax pursuant to Section 7-2-4 NMSA 1978, but does not
11 include state or local government agencies;

12 [~~(12)~~] (14) "sustainable building" means
13 either a sustainable commercial building or a sustainable
14 residential building;

15 [~~(13)~~] (15) "sustainable commercial
16 building" means a building used as multifamily dwelling
17 units, as registered and certified under the LEED-H rating
18 system that is certified by the United States green building
19 council as LEED-H silver or higher or by build green New
20 Mexico as gold or higher and has achieved a home energy
21 rating system index of sixty or lower as developed by the
22 residential energy services network; or a building that has
23 been registered and certified under the LEED-NC, LEED-EB,
24 LEED-CS or LEED-CI rating system and that:

25 (a) is certified by the United States

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1 green building council at LEED silver or higher;

2 (b) achieves any prerequisite for and
3 at least one point related to commissioning under LEED
4 "energy and atmosphere", if included in the applicable rating
5 system; and

6 (c) has reduced energy consumption, as
7 follows: 1) through 2011, a fifty percent energy reduction
8 will be required based on the national average for that
9 building type as published by the United States department of
10 energy; and beginning January 1, 2012, a sixty percent energy
11 reduction will be required based on the national average for
12 that building type as published by the United States
13 department of energy; and 2) is substantiated by the United
14 States environmental protection agency target finder energy
15 performance results form, dated no sooner than the schematic
16 design phase of development; and

17 [~~(14)~~] (16) "sustainable residential
18 building" means:

19 (a) a building used as a single-family
20 residence as registered and certified under the build green
21 New Mexico or LEED-H rating systems that: 1) is certified by
22 the United States green building council as LEED-H silver or
23 higher or by build green New Mexico as gold or higher; and 2)
24 has achieved a home energy rating system index of sixty or
25 lower as developed by the residential energy services

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1 network;

2 (b) a building used as multifamily
3 dwelling units, as registered and certified under the LEED-H
4 rating system that: 1) is certified by the United States
5 green building council as LEED-H silver or higher or by build
6 green New Mexico as gold or higher; and 2) has achieved a
7 home energy rating system index of sixty or lower as
8 developed by the residential energy services network; or

9 (c) manufactured housing as defined by
10 the United States department of housing and urban development
11 that is ENERGY STAR-qualified by the United States
12 environmental protection agency."

13 Section 2. Section 7-2A-21 NMSA 1978 (being Laws 2007,
14 Chapter 204, Section 4) is amended to read:

15 "7-2A-21. SUSTAINABLE BUILDING TAX CREDIT.--

16 A. The tax credit provided by this section may be
17 referred to as the "sustainable building tax credit". The
18 sustainable building tax credit shall be available for the
19 construction in New Mexico of a sustainable building, ~~[or]~~
20 the renovation of an existing building in New Mexico into a
21 sustainable building or the permanent installation of
22 manufactured housing, regardless of where the housing is
23 manufactured, that is a sustainable building. The tax credit
24 provided in this section may not be claimed with respect to
25 the same sustainable building for which the sustainable

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1		Occupied	Square Foot
2		Square Footage	
3	LEED-NC Silver	First 10,000	\$3.50
4		Next 40,000	\$1.75
5		Over 50,000	
6		up to 500,000	\$.70
7	LEED-NC Gold	First 10,000	\$4.75
8		Next 40,000	\$2.00
9		Over 50,000	
10		up to 500,000	\$1.00
11	LEED-NC Platinum	First 10,000	\$6.25
12		Next 40,000	\$3.25
13		Over 50,000	
14		up to 500,000	\$2.00
15	LEED-EB or CS Silver	First 10,000	\$2.50
16		Next 40,000	\$1.25
17		Over 50,000	
18		up to 500,000	\$.50
19	LEED-EB or CS Gold	First 10,000	\$3.35
20		Next 40,000	\$1.40
21		Over 50,000	
22		up to 500,000	\$.70
23	LEED-EB or CS		
24	Platinum	First 10,000	\$4.40
25		Next 40,000	\$2.30

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1		Over 50,000	
2		up to 500,000	\$1.40
3	LEED-CI Silver	First 10,000	\$1.40
4		Next 40,000	\$.70
5		Over 50,000	
6		up to 500,000	\$.30
7	LEED-CI Gold	First 10,000	\$1.90
8		Next 40,000	\$.80
9		Over 50,000	
10		up to 500,000	\$.40
11	LEED-CI Platinum	First 10,000	\$2.50
12		Next 40,000	\$1.30
13		Over 50,000	
14		up to 500,000	\$.80.

D. The amount of the sustainable building tax credit that may be claimed with respect to a sustainable residential building shall be calculated based on the certification level the building has achieved in the LEED green building rating system or the build green New Mexico rating system and the amount of qualified occupied square footage, as indicated on the following chart:

Rating System/Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
Build Green NM Gold	First 2,000	\$4.50

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1		Next 1,000	\$2.00
2	LEED-H Silver	First 2,000	\$5.00
3		Next 1,000	\$2.50
4	LEED-H Gold	First 2,000	\$6.85
5		Next 1,000	\$3.40
6	LEED-H Platinum	First 2,000	\$9.00
7		Next 1,000	\$4.45
8	EPA ENERGY STAR		
9	Manufactured Housing	Up to 3,000	\$3.00.

10 E. A ~~[taxpayer]~~ building owner may apply for
11 ~~[certification]~~ a certificate of eligibility for the
12 sustainable building tax credit from the energy, minerals and
13 natural resources department after the construction,
14 installation or renovation of the sustainable building is
15 complete. Applications shall be considered in the order
16 received. If the energy, minerals and natural resources
17 department determines that the ~~[taxpayer]~~ building owner
18 meets the requirements of ~~[Subsection B of]~~ this ~~[section]~~
19 subsection and that the building with respect to which the
20 tax credit application is made meets the requirements of this
21 section as a sustainable residential building or a
22 sustainable commercial building, ~~[it]~~ the energy, minerals
23 and natural resources department may issue a certificate of
24 eligibility to the ~~[taxpayer]~~ building owner, subject to the
25 limitation in Subsection F of this section. The certificate

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1 shall include the rating system certification level awarded
2 to the building, the amount of qualified occupied square
3 footage in the building and a calculation of the maximum
4 amount of sustainable building tax credit for which the
5 ~~[taxpayer]~~ building owner would be eligible. The energy,
6 minerals and natural resources department may issue rules
7 governing the procedure for administering the provisions of
8 this subsection. If the certification level for the building
9 in the LEED green building rating system or the build green
10 New Mexico rating system is awarded on or after January 1,
11 2007, the energy, minerals and natural resources department
12 may issue a certificate of eligibility to a building owner
13 who is:

14 (1) the owner of the building at the time
15 the certification level for the building in the LEED green
16 building rating system or the build green New Mexico rating
17 system is awarded; or

18 (2) the subsequent purchaser of a
19 sustainable building with respect to which no tax credit has
20 been previously claimed.

21 F. The energy, minerals and natural resources
22 department may issue a certificate of eligibility only if the
23 total amount of sustainable building tax credits represented
24 by certificates of eligibility issued by the energy, minerals
25 and natural resources department pursuant to this section and

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1 pursuant to the Income Tax Act shall not exceed in any
2 calendar year an aggregate amount of five million dollars
3 (\$5,000,000) with respect to sustainable commercial buildings
4 and an aggregate amount of five million dollars (\$5,000,000)
5 with respect to sustainable residential buildings; provided
6 that no more than one million two hundred fifty thousand
7 dollars (\$1,250,000) of the aggregate amount with respect to
8 sustainable residential buildings shall be for manufactured
9 housing. If in October of any taxable year, the energy,
10 minerals and natural resources department determines that the
11 applications for sustainable building tax credits with
12 respect to sustainable residential buildings for that taxable
13 year exceed the aggregate limit set in this section, the
14 energy, minerals and natural resources department may issue
15 certificates of eligibility as sustainable commercial
16 buildings to building owners of multifamily dwellings that
17 meet the requirements of the energy, minerals and natural
18 resources department and of this section; provided that
19 applications for sustainable building credits for other
20 sustainable commercial buildings total less than the full
21 amount allocated for tax credits for sustainable commercial
22 buildings.

23 G. Installation of a solar thermal system or a
24 photovoltaic system eligible for the solar market development
25 tax credit pursuant to Section 7-2-18.14 NMSA 1978 may not be
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1 used as a component of qualification for the rating system
2 certification level used in determining eligibility for the
3 sustainable building tax credit, unless a solar market
4 development tax credit pursuant to Section 7-2-18.14 NMSA
5 1978 has not been claimed with respect to that system and the
6 building owner and the taxpayer ~~[certifies]~~ claiming the
7 sustainable building tax credit certify that such a tax
8 credit will not be claimed with respect to that system.

9 H. To be eligible for the sustainable building
10 tax credit, the ~~[taxpayer must]~~ building owner shall provide
11 to the taxation and revenue department a certificate of
12 eligibility issued by the energy, minerals and natural
13 resources department pursuant to the requirements of
14 Subsection E of this section and any other information the
15 taxation and revenue department may require to determine the
16 amount of the tax credit ~~[due]~~ for which the ~~[taxpayer]~~
17 building owner is eligible.

18 I. If the requirements of this section have been
19 complied with, the department shall issue to the ~~[applicant]~~
20 building owner a document granting a sustainable building tax
21 credit. The document shall be numbered for identification
22 and declare its date of issuance and the amount of the tax
23 credit allowed pursuant to this section. The document may be
24 submitted by the building owner with that taxpayer's income
25 tax return or may be sold, exchanged or otherwise transferred

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underscored material = new
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1 to another taxpayer. The parties to such a transaction shall
2 notify the department of the sale, exchange or transfer
3 within ten days of the sale, exchange or transfer.

4 J. Except as provided in Subsection K of this
5 section, the sustainable building tax credit represented by
6 the document issued pursuant to Subsection I of this section
7 shall be applied against the taxpayer's corporate income tax
8 liability for the taxable year in which the credit is
9 approved and the three subsequent taxable years, in
10 increments of twenty-five percent of the total credit amount
11 in each of the four taxable years. If the amount of the
12 credit available in a taxable year exceeds the taxpayer's
13 corporate income tax liability for that taxable year, the
14 excess may be carried forward for up to seven years.

15 K. If the total amount of a sustainable building
16 tax credit approved by the department is less than twenty-
17 five thousand dollars (\$25,000), the entire amount of the
18 credit may be applied against the taxpayer's corporate income
19 tax liability for the taxable year in which the credit is
20 approved. If the amount of the credit exceeds the taxpayer's
21 corporate income tax liability for that taxable year, the
22 excess may be carried forward for up to seven years.

23 L. A taxpayer that otherwise qualifies and claims
24 a sustainable building tax credit with respect to a
25 sustainable building owned by a partnership or other business

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1 association of which the taxpayer is a member may claim a
2 credit only in proportion to that taxpayer's interest in the
3 partnership or association. The total credit claimed in the
4 aggregate by all members of the partnership or association
5 with respect to the sustainable building shall not exceed the
6 amount of the credit that could have been claimed by a sole
7 owner of the property.

8 M. For the purposes of this section:

9 (1) "build green New Mexico rating system"
10 means the certification standards adopted by the homebuilders
11 association of central New Mexico;

12 (2) "LEED-CI" means the LEED rating system
13 for commercial interiors;

14 (3) "LEED-CS" means the LEED rating system
15 for the core and shell of buildings;

16 (4) "LEED-EB" means the LEED rating system
17 for existing buildings;

18 (5) "LEED gold" means the rating in
19 compliance with, or exceeding, the second-highest rating
20 awarded by the LEED certification process;

21 (6) "LEED" means the most current leadership
22 in energy and environmental design green building rating
23 system guidelines developed and adopted by the United States
24 green building council;

25 (7) "LEED-H" means the LEED rating system

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1 for homes;

2 (8) "LEED-NC" means the LEED rating system
3 for new buildings and major renovations;

4 (9) "LEED platinum" means the rating in
5 compliance with, or exceeding, the highest rating awarded by
6 the LEED certification process;

7 (10) "LEED silver" means the rating in
8 compliance with, or exceeding, the third-highest rating
9 awarded by the LEED certification process;

10 (11) "qualified occupied square footage"
11 means the occupied spaces of the building as determined by:

12 (a) the United States green building
13 council for those buildings obtaining LEED certification;

14 (b) the administrators of the build
15 green New Mexico rating system for those homes obtaining
16 build green New Mexico certification; and

17 (c) the United States environmental
18 protection agency for ENERGY STAR-certified manufactured
19 homes;

20 (12) "multifamily dwelling" means a building
21 that has multiple dwelling units for more than one family
22 unit and may be considered to be either a sustainable
23 residential building or a sustainable commercial building;

24 (13) "nonprofit organization" means a
25 nonprofit corporation, trust or insurance company that is

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1 exempt from payment of income tax pursuant to Section 7-2A-4
2 NMSA 1978 or a public school or public school district, but
3 does not include state or local government agencies;

4 [~~(12)~~] (14) "sustainable building" means
5 either a sustainable commercial building or a sustainable
6 residential building;

7 [~~(13)~~] (15) "sustainable commercial
8 building" means a building used as multifamily dwelling
9 units, as registered and certified under the LEED-H rating
10 system that is certified by the United States green building
11 council as LEED-H silver or higher or by build green New
12 Mexico as gold or higher and has achieved a home energy
13 rating system index of sixty or lower as developed by the
14 residential energy services network; or a building that has
15 been registered and certified under the LEED-NC, LEED-EB,
16 LEED-CS or LEED-CI rating system and that:

17 (a) is certified by the United States
18 green building council at LEED silver or higher;

19 (b) achieves any prerequisite for and
20 at least one point related to commissioning under LEED
21 "energy and atmosphere", if included in the applicable rating
22 system; and

23 (c) has reduced energy consumption, as
24 follows: 1) through 2011, a fifty percent energy reduction
25 will be required based on the national average for that

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1 building type as published by the United States department of
2 energy; and beginning January 1, 2012, a sixty percent energy
3 reduction will be required based on the national average for
4 that building type as published by the United States
5 department of energy; and 2) is substantiated by the United
6 States environmental protection agency target finder energy
7 performance results form, dated no sooner than the schematic
8 design phase of development; and

9 [~~(14)~~] (16) "sustainable residential
10 building" means:

11 (a) a building used as a single-family
12 residence as registered and certified under the build green
13 New Mexico or LEED-H rating systems that: 1) is certified by
14 the United States green building council as LEED-H silver or
15 higher or by build green New Mexico as gold or higher; and 2)
16 has achieved a home energy rating system index of sixty or
17 lower as developed by the residential energy services
18 network;

19 (b) a building used as multifamily
20 dwelling units, as registered and certified under the LEED-H
21 rating system that: 1) is certified by the United States
22 green building council as LEED-H silver or higher or by build
23 green New Mexico as gold or higher; and 2) has achieved a
24 home energy rating system index of sixty or lower as
25 developed by the residential energy services network; or

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1 (c) manufactured housing as defined by
2 the United States department of housing and urban development
3 that is ENERGY STAR-qualified by the United States
4 environmental protection agency."

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